

The Honorable Thomas S. Zilly
FILED
CC LTO JUDGE
MAY 23 2002
ENTERED
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MR
AT SEATTLE
CLERK U.S. DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
DEPUTY

CV 01-01081 #00000026

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON AT SEATTLE

MUIO TRAN, KIM CUC NGUYEN, NHU
HUU TRAN, a minor child, LOAN HUU
TRAN, a minor child,

Plaintiffs,

v.

CITY OF SEATTLE, et al.,

Defendants.

No. CO1-1081-Z

DECLARATION OF HEATHER
CARR IN SUPPORT OF
DEFENDANTS' MOTION FOR
SUMMARY JUDGMENT

HEATHER CARR declares as follows:

1. I am one of the attorneys for the defendants in the above-captioned matter. I make this declaration on the basis of personal knowledge and am competent to testify to the matters herein

2. Attached are true and correct copies of documents that were generated or received and maintained by my office during the course of representing the defendants in this matter

a. Attached as Exhibit 1 is a copy of plaintiff Muio Tran's Claim for Damages, filed with the City of Seattle

DECLARATION OF HEATHER CARR (COA No.
CO1-1081-Z) - 1

\\EARTHDATA\CLIENTS\3019\22003\PLDCARR DECL SJM DOC

STAFFORD FREY COOPER
Professional Corporation
ATTORNEYS
2500 RAINIER TOWER
1301 FIFTH AVENUE
SEATTLE, WASHINGTON 98101-2621
TEL (206) 623-9900
FAX (206) 624-6885

ORIGINAL

26

City of Seattle

CLAIM FOR DAMAGES

NOTE:
Type or Print Legibly.
See Instructions on back.

CITY USE ONLY	
CLAIM NUMBER	C-16385
DATE FILED	12-30-99

CLAIMANT	NAME (FIRST - M. - LAST OR BUSINESS NAME) Muoi Tran	HOME PHONE (206) 725-0217
HOME ADDRESS (NUMBER - STREET - CITY - STATE - ZIP) 5101 So. Orchard str., Seattle, WA 98118		BUS. PHONE
ACCIDENT/LOSS	DATE 7/19/1999 TIME around 11:30 pm	
LOCATION/SITE	BE VERY SPECIFIC: STREETS, ADDRESSES, etc 5101 So. Orchard str., Seattle, WA 98118	
WHAT HAPPENED	DESCRIBE IN YOUR OWN WORDS HOW THIS LOSS OCCURRED AND WHY YOU BELIEVE THE CITY IS RESPONSIBLE. see attached	
		<div style="border: 1px solid black; padding: 5px; display: inline-block;"> FILED CITY OF SEATTLE DEC 30 PM 3:00 CITY CLERK </div>
		CITY DEPT?
		CITY EMPLOYEE(S)?
		CITY
		VEHICLE NUMBER, LIC., etc

WAS YOUR PROPERTY (home, auto, personal property) **DAMAGED?**

☒ YES IF SO, THEN FULLY DESCRIBE - SUCH AS AGE, MAKE MODEL, CONDITION, VALUE, OR EXTENT OF DAMAGE

☐ NO

see attached

WERE YOU INJURED? ☒ YES IF YES, THEN COMPLETE THE FOLLOWING:
☐ NO

DESCRIBE YOUR INJURY (IDENTIFY YOUR DOCTOR(S)) Dr. Alan Chun, MD

see attached

DATE OF BIRTH 12/10/52 SOCIAL SECURITY NUMBER 533-06-8000 WAGE LOSS ☒ YES ☐ NO IF YES, THEN RATE OF PAY \$200/hr

KIND OF WORK owner of auto shop EMPLOYER self

AMOUNT CLAIMED IF UNKNOWN, THEN ENTER "UNKNOWN" \$ 870,000.00

SIGNATURE OF CLAIMANT (AND TITLE, IF A BUSINESS) I declare under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct

EXECUTED this 30th day of Dec, 1999.

at Seattle, King County, Washington.

EXHIBIT 1

LAW OFFICE OF
BILLY S. MITCHELL

BILLY S. MITCHELL

~~BARBARA~~

STAN PHAM

WILLIAM CAMPBELL

December 30, 1999

**CITY OF SEATTLE, WASHINGTON
CLAIM FOR DAMAGES- MUOI TRAN
ATTACHMENT**

AMOUNT CLAIMED: General Damages: \$870,000

LEGAL BASE OF CLAIM:

Violation of Civil Rights - First, Fourth, Eighth, Thirteenth and Fourteenth Amendments of the United States Constitution, Washington State Constitution, assault, false arrest, false imprisonment, and intentional and negligent infliction of emotional distress.

DETAILS:

On July 19th, 1999, at approximately 11:30 p.m., Mr. Muoi Tran was sitting in his Rainier Valley home watching TV with his wife and young daughter. They heard a knock on the door. The daughter went to see who was there. She looked through the curtains and was scared to open the door because she could not ascertain clearly who was there. Mr. Tran went and opened the door. Seattle City police officers stood before him and asked if they could come in. Mr. Tran agreed and the officers started questioning him about a motor vehicle accident involving Mr. Tran's van. Mr. Tran's native language is Vietnamese and he does not speak English well. Mr. Tran communicated to the officers that he had not driven the van and was not involved in any accident. The police then inquired about the whereabouts of his son. Mr. Tran's wife, Mrs. Kim-Cuc Nguyen, went to retrieve their son. The son denied his involvement in any accident. The officers checked the son's identifications and proceeded to place the son under arrest. Mr. Tran objected and asked the officers to leave his house. One of the officers responded by the saying, "too late."

The officers became agitated with Mr. Tran and started assaulting him in front of his son, his wife, and his two daughters, of age eleven and sixteen. They chased him around the house from one place to another destroying every thing that stood in their way. Even family religious icons and shrines were demolished in the assault. Mr. Tran has documented all that destruction on a video tape recording. He is willing to provide the city with a copy of the video as well as pictures of his blood on the wall of his house that

Pioneer Building

600 First Avenue, Suite 514 Seattle, Washington 98104 • Tel (206)621-9460 • Fax (206)621-9506

resulted from the beating and the loss of one of his front teeth.

That night, the police placed the entire family under arrest except for the two young daughters. Mr. Tran was taken to King County jail and spent two nights in custody. During his incarceration, he was not able to run his auto shop and lost the income from those days.

INJURIES:

Mr. Tran feels that he is no longer safe in his home. As a result of this incident, he suffers from emotional distress, fear and anger. He also suffered from personal injuries requiring professional treatment and therapy. He escaped his native land only to find himself and his family brutally violated in America. He will never feel free and secure again. In addition, his shame of being humiliated in front of his family will last forever.

WITNESSES:

Police officer: Kirk Waldrof Serial 6331 Unit 433

Police officer: A. Little Serial 4843

Police officer: J. Stevens Serial 5072 Unit 433

EVIDENCE:

Photos (8) of Mr. Tran's injuries

Video tape recording

Medical records

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "Billy S. Mitchell".

Billy S. Mitchell
(206) 621-9460

City of Seattle

CLAIM FOR DAMAGES

NOTE:
Type or Print Legibly.
See instructions on back.

CITY USE ONLY	
CLAIM NUMBER	66382
DATE FILED	12.30.99

CLAIMANT	NAME (FIRST - M. - LAST OR BUSINESS NAME) Kim-Cuc Nguyen	HOME PHONE (206) 725-0217
HOME ADDRESS (NUMBER - STREET - CITY - STATE - ZIP) 5101 So. Orchard str., Seattle, WA 98118		BUS. PHONE
ACCIDENT/LOSS	DATE 7/19/1999 TIME around 11:30 pm	
LOCATION/SITE	BE VERY SPECIFIC: STREETS, ADDRESSES, etc 5101 So Orchard str., Seattle, WA 98118	
WHAT HAPPENED	DESCRIBE IN YOUR OWN WORDS HOW THIS LOSS OCCURRED AND WHY YOU BELIEVE THE CITY IS RESPONSIBLE. see attached	
		<div style="border: 1px solid black; padding: 5px; display: inline-block;"> DIAGRAM Use if this will help you locate or describe what happened </div> <div style="border: 1px solid black; padding: 5px; display: inline-block; transform: rotate(-90deg); transform-origin: center;"> FILED CITY OF SEATTLE 99 DEC 30 PM 2:59 CITY CLERK </div>
		CITY DEPT?
		CITY EMPLOYEE(S)?
		CITY
		VEHICLE NUMBER, LIC, etc

WAS YOUR PROPERTY (home, auto, personal property) DAMAGED?	
<input checked="" type="checkbox"/> YES IF SO, THEN FULLY DESCRIBE - SUCH AS AGE, MAKE MODEL, CONDITION, VALUE, OR EXTENT OF DAMAGE. <input type="checkbox"/> NO	
see attached	

WERE YOU INJURED?	<input checked="" type="checkbox"/> YES IF YES, THEN COMPLETE THE FOLLOWING: <input type="checkbox"/> NO
DESCRIBE YOUR INJURY (IDENTIFY YOUR DOCTOR(S)) <u>Dr. Alan Chun, MD</u>	
see attached	

DATE OF BIRTH <u>4/1/54</u>	SOCIAL SECURITY NUMBER <u>534-06-9680</u>	WAGE LOSS <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	IF YES, THEN RATE OF PAY _____
KIND OF WORK _____		EMPLOYER _____	

AMOUNT CLAIMED. IF UNKNOWN, THEN ENTER "UNKNOWN"	\$ 680,000.00
--	---------------

SIGNATURE OF CLAIMANT (AND TITLE, IF A BUSINESS)	I declare under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct. EXECUTED this <u>30th</u> day of <u>Dec.</u> , 19 <u>99</u> . at <u>Seattle</u> , <u>King</u> County, Washington. <u>Kim-Cuc Nguyen</u>
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EXHIBIT 2

LAW OFFICE OF
BILLY S. MITCHELL

BILLY S. MITCHELL
PARALEGALS
ALAN PHAM
WILLIAM CAMPBELL

December 30, 1999

CITY OF SEATTLE, WASHINGTON
CLAIM FOR DAMAGES- KIM-CUC NGUYEN
ATTACHMENT

AMOUNT CLAIMED: General Damages: \$680,000

LEGAL BASE OF CLAIM:

Violation of Civil Rights - First, Fourth, Eighth, Thirteenth and Fourteenth Amendments of the United States Constitution, Washington State Constitution, assault, false arrest, false imprisonment, and intentional and negligent infliction of emotional distress.

DETAILS:

On July 19, 1999, at approximately 11:30 p.m., Mrs Kim-Cuc Nguyen was sitting in her Rainier Valley home watching TV with her husband, Mr. Moi Tran, and her young daughter. They heard a knock on the door. The daughter went to see who was there. She looked through the curtains and was scared to open the door because she did not ascertain clearly who was there. Mr. Tran went and opened the door. Seattle City police officers stood before him and asked if they could come in. Mr. Tran agreed and the officers started questioning him about an accident involving Mr. Tran's van. Mr. Tran's native language is Vietnamese and he does not speak English well. Mr. Tran communicated to the officers that he had not driven the van and was not involved in any accident. The police then inquired about the whereabouts of his son. Mrs. Nguyen went to retrieve their son. The son denied his involvement in any accident. The officers checked the son's identifications and proceeded to place him under arrest. Mr. Tran objected and asked the officers to leave his house. One of the officers responded by saying, "too late."

The officers became agitated with Mr. Tran and started assaulting him in front of their son, their eleven-year-old daughter, their sixteen-year-old daughter, and in front of Mrs. Nguyen. They chased him around the house from one place to another destroying every thing that stood in their way. Even family religious icons and shrines were demolished in the assault. When Mrs. Nguyen started screaming in effort to make the beating stop, she was assaulted herself by the police, and was subsequently pushed down to the floor and dragged.

That night, the officers placed the entire family under arrest except for the 11-year-old daughter and the sixteen-year-old daughter. Mrs. Nguyen was taken to King County jail and spent two nights in custody.

INJURIES:

Mrs. Nguyen feels that she is no longer safe in her home. As a result of this incident, she suffers from emotional distress, fear and anger. She has bad nightmares. She feels violated and ashamed. She spent two of the worse nights in her life worrying sick about her two young daughters that were left alone in the house. She also suffered personal injuries requiring professional treatment. She has been a patient of International Community Health Services under the care of Dr. Alan Chun.

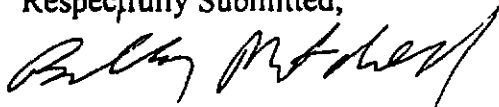
WITNESSES:

Police officer: Kirk Waldrof Serial 6331 Unit 433
Police officer: A. Little Serial 4843
Police officer: J. Stevens Serial 5072 Unit 433

EVIDENCE:

Video tape recording
Medical records

Respectfully Submitted,



Billy S. Mitchell
(206) 621-9460



SEATTLE
POLICE
DEPARTMENT

CASE REPORT FACE SHEET

INCIDENT NUMBER 99-296991
UNIT FILE NO H&A 99-228

CASE REPORT Assault

DATE July 21, 1999

NAME OF BUSINESS AND VICTIM	DATE OF CRIME	NAME OF DEFENDANT	CHARGE
Ofcr Alvin Little, et al	7/19/99	Hoa Huu Tran AM DOB 10/15/76 B/A 99-32807 CCN 1696262 PCN 4918444	12A 16.050 - Resisting Arrest Municipal Court
		Muoi Tran AM DOB 12/10/52 B/A 99-32809 CCN 1736968 PCN. 4918436	12A 06.010 - Assault Municipal Court
		Kim Cuc Nguyen AF DOB 4/2/54 B/A 99-32822 CCN. 1736970 PCN: 4918479	12A 06 010 - Assault Municipal Court

NAMES AND ADDRESSES OF WITNESSES	PHONE NUMBERS
Ofcr Kirk Waldorf #6311-433	S P D South Precinct 386-1850
Ofcr Alvin Little #4843-433	S P D South Precinct 386-1850
Ofcr Aaron Sausman #6089-433	S P D South Precinct 386-1850
Ofcr Todd Harris #6221-433	S P D South Precinct 386-1850
Ofcr Bruce Wind #3995-433	S P D South Precinct 386-1850

EVIDENCE CONSISTS OF	EVIDENCE NUMBER
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TO DEPUTY PROSECUTOR

DATE

COPIES TO

(Signature)

PREPARED BY Det John Nordlund

2909 715

APPROVED BY

(Signature) 4311

EXHIBIT 3

U.S DISTRICT COURT
IN THE WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

MUIO TRAN, KIM-CUC NGUYEN,)
NHU HUU TRAN, a minor child;)
LOAN HUU TRAN, a minor child,)

Plaintiffs,)

vs.)

CITY OF SEATTLE, et al.,)

Defendants.)

No. CO1-1081-2

RECEIVED

APR 12 2002

STAFFORD FREY COOPER

COPY

DEPOSITION UPON ORAL EXAMINATION OF

MUIO TRAN

9:08 a.m., March 27, 2002

1301 Fifth Avenue, Suite 2500

Seattle, Washington

Andrea Evans, CCR

Court Reporter Ref. #EV-AN-SA-*352PW

PARADISE SHERMAN REALTIME REPORTERS
(206) 284-7584

EXHIBIT 4

1 INTERPRETER: Oh, okay.

2 MS. CARR: I'm sorry.

3 THE WITNESS: V-I-E-T-N-A-M, B-I-N-H, D-U-O-N-G.

4 BY MS. CARR:

5 Q And when did you move to the United States?

6 A In September 1987.

7 Q Have you ever studied English before?

8 A Yes, ESL.

9 Q So here in the United States?

10 A Yes. I studied here.

11 Q For how long did you study English with ESL?

12 A About one year.

13 Q And when was that?

14 A Between '87 to '88.

15 Q Have you become a citizen of the United States?

16 A Yes.

17 Q Okay. And where have you been employed over the
18 last five years?

19 A I work at M.K. Auto, my shop.

20 Q And you've worked there consistently for the last
21 five years?

22 A Yes, uh-huh.

23 Q Have you worked anywhere else, during the last
24 five years?

25 A No.

1 that would be good.

2 A Yes. I take -- when I came to USA, I took the
3 class at South Seattle Community College.

4 Q And that class was about auto repair; is that
5 correct?

6 A Yes, auto repair and auto body.

7 Q Did you obtain your Associates degree at South
8 Central Community College?

9 A Yes.

10 Q Did you attend any four-year college?

11 A No.

12 Q When did you get your degree from South Central
13 Community College?

14 A 1993.

15 Q And were your classes taught in English or
16 Vietnamese?

17 A In English.

18 Q Have you ever been arrested before?

19 A No, not yet, only this.

20 Q Only with respect to the incident on July 19,
21 1999; is that your testimony?

22 A Yes.

23 Q Do you belong to any community organizations?

24 A No.

25 Q What do you do when you're not working, for your

1 time off?

2 A I work all day, every day. If I don't work in
3 the shop, I have to work at home.

4 Q Will you just walk me through the events of
5 July 19, 1999?

6 A Yes.

7 Q I'd like you to begin with when the officers came
8 to your door and knocked.

9 A Yes.

10 Q Okay. Please do so.

11 A On that night, I was at home and watching the
12 television with my two daughters and with my wife. Then I
13 heard a knocking at the door. I opened the door for them
14 to come in. It was the police. And I was asked that if
15 they could come in.

16 When they came in, they told me to take them around --
17 to go around and then go to the back. They told me that I
18 hit somebody when I operate an automobile. But I was at
19 home. I didn't go anywhere.

20 Then I was asked that if there was anybody at home. I
21 told them that I want to go upstairs to see if my son was
22 at home. Then I called him down. Then the police beat. I
23 separate them. And I showed them out of my house. And
24 they told me it were too late. They wouldn't go. Then
25 they beat me, too, and then they took me away. And the

1 incident happened since then.

2 Q I don't understand the last sentence. You said,
3 "The incident happened since then"?

4 A I don't know what happened. They came. And then
5 they took me in custody. I don't know. The police came
6 and took me into the custody. I don't know what happened.

7 Q Okay. Can you describe how you were dressed,
8 when the police came to your house?

9 A I only have shorts.

10 Q Shorts?

11 A Short. Oh, it's a boxer.

12 Q So your underwear?

13 A I have an underwear and then a kind of short,
14 boxer. The boxers mean it's boxer.

15 Q Okay. I understand. Thank you.

16 Do you remember what the police said to you, when you
17 opened the door?

18 A When I opened the door, the police asked me that
19 if they could come into the house. I said, "Yes."

20 Q Okay. Did they tell you anything else?

21 A They asked me to get into the house, and then I
22 let them in. Then they told me that I hit somebody in the
23 car. But in reality, I was at home. I didn't go anywhere.

24 Q Did you tell the police that you were at home?

25 A Yes, of course.

1 Q And what did they say in response?

2 A They asked me, "Then who drove the car?" But in
3 reality, I was at home watching the TV. I didn't know what
4 happened.

5 Q Did you know who had driven the car?

6 A At that moment, I don't know. I didn't know what
7 happened.

8 Q Did you have any belief about who may have driven
9 the car?

10 A Possible.

11 Q And who did you think had driven the car?

12 A I think that maybe my son, but I keep the key.

13 Q Did you tell that you thought -- did you tell the
14 police that you thought your son may have driven the car?

15 A That's why I go upstairs and call my son down and
16 talk to the police, and I would like to ask him that who
17 drove the car.

18 Q So you did tell the police you thought your son
19 may have driven the car?

20 A I told the police that I want to call my son
21 downstairs, and I would like to ask him if he drove the
22 car. Otherwise, the car was parked outside, and I don't
23 know. Somebody may took it and drove it. I have no idea.

24 Q Did you personally go get your son?

25 A Yes. Yeah, it was me. I went upstairs and told

1 my son to come down.

2 Q Okay. And I think you were starting to speak,
3 when I asked that question.

4 Did you have something to add to your previous answer?

5 A What is the question?

6 MS. CARR: I don't know. Could you read it back?

7 (The court reporter read back the question.)

8 THE WITNESS: At that moment, I was at home, watching
9 the TV with my daughters and my wife. I didn't know what
10 happened. So I wanted to go upstairs and ask my son if he
11 may have driven the car or what happened or somebody else
12 took the car. I don't know. I didn't know then.

13 BY MS. CARR:

14 Q Did you talk to your son, when you were upstairs
15 with him?

16 A I stand by the stairs and told him to go down.

17 Q Okay. And when he came downstairs, did you ask
18 him if he had driven the car?

19 A When he came downstairs, I asked him if he was
20 driven -- if he drove the car. But I have not finished my
21 question, and the police just jump in and beat him.

22 Q Did you, at any time, go outside with the police
23 officers to see the car?

24 A Yes.

25 Q And when was that?

1 have been investigating an accident involving your car?

2 A Investigate about my car?

3 Q Yes.

4 A As I told you, the whole incident happened in a
5 short time, 15 minutes, when the police came to my house
6 and the police asked to look around. And I cooperate with
7 the police, and I thought that there may be something
8 happen. That's true.

9 Q When you saw the damage to your vehicle, did you
10 think that they were investigating something with respect
11 to your car?

12 A I didn't think anything, at that moment. I
13 didn't know what they came for to investigate or whatever
14 reason. The only thing I know that they asked me to look
15 at the car, and I cooperate with them.

16 Q What I'm asking you is what you believed. I
17 don't need you to tell me what the officers actually
18 thought or what they were actually doing.

19 But when you saw them and they asked to see your car,
20 what did you think they asked to see your car for?

21 A At that moment, to tell the truth, I don't know
22 what happened. The police asked me to look around and look
23 at the car. I helped them, and I cooperate with them. But
24 to tell you the truth, I don't understand. I don't know
25 what happened and what did the police want, at that moment.

1 Q Were you surprised, when you saw that your car
2 had been damaged?

3 A Yes. I was surprised, of course.

4 Q And it wasn't damaged, when you had seen the car
5 earlier?

6 A No. Because I parked my car there. When the
7 police went out and looked at the car, I was surprised,
8 because I wouldn't know what happened to the car. When I
9 left work, I went home. I took a bath. And then I relaxed
10 and then watched TV. I wouldn't even open the door to go
11 out and look around outside. I stay indoors and do some
12 work in the house and watching the TV. Yeah.

13 Q So after the police took you out to look at your
14 car, did you say anything to the police about the damage
15 that you saw?

16 A The police asked me what happened, how come the
17 car were damaged. And I said I didn't know.

18 Q And then what happened?

19 A So we went back into the house, and the police
20 asked me that if there anybody in the house with me. At
21 that moment, I didn't know my son was at home. Then there
22 was my wife and my two daughters in the house. Then I went
23 to the stair and called up to see if my son was at home.
24 And then I called him downstairs to talk to the police.
25 And then by the time he got downstairs, then the incident

1 Q Did you hear any -- the officers talk to anybody
2 at all in your house, other than you?

3 A No.

4 Q Did you hear anyone in your house say anything to
5 the officers?

6 A No.

7 Q After your son came down the stairs, while you
8 were watching the movie on the television, did -- you may
9 have already answered this -- but did you hear the officers
10 say anything to your son?

11 A No.

12 Q Did you hear your son say anything to the
13 officers?

14 A No.

15 Q After your son came downstairs, tell me exactly
16 what you saw.

17 A When my son came down the stairs, then I went
18 here, and I watch TV, and I let him talk to the police.

19 Q And you don't know what your son said to the
20 police; is that true?

21 A That's correct.

22 Q And then what did you see?

23 A I don't know what happened between them. But
24 there was scuffle between the police and my son. So I
25 asked the police to leave the house. The police said it

1 were too late.

2 Q Did your son say anything to you?

3 A No.

4 Q Did you -- after the officer said it was too
5 late, did you understand what -- strike that.

6 What did you interpret the officer's statement, that
7 it was too late, to mean?

8 A Normally, I understand a few words in English.
9 But if you ask me many questions in many issue, I cannot
10 answer in English. All right.

11 Q Let me just ask it a different way, then.

12 What did you think the officer meant, when he said,
13 "It's too late"?

14 A I don't know what he mean. But when I asked them
15 to leave, they said it was too late.

16 Q And you didn't know what, "It's too late," means?

17 A I understand that is mean late, too late. It's
18 too late. But I don't know what are -- what are the
19 meaning of the sentence.

20 Q Did you think your son was being arrested?

21 A I don't know.

22 Q You don't know what you thought, at the time, or
23 you didn't know if he was being arrested?

24 A I didn't know what happened. And I didn't know
25 that my son would be arrested, at that moment. I didn't

1 know what happened.

2 Q Did you think he would be arrested later on?

3 A No.

4 Q After the officer said it was too late, what did
5 you see?

6 A They jump on my son. And then I tried to
7 separate them, and they jumped at me, too.

8 Q What do you mean by, "jumped on my son"?

9 A I saw -- I didn't know what happened. But I saw
10 them beat my son.

11 Q Describe what you saw in detail, please.

12 A They using their hand. What else can they do?

13 Q Did they use their hand to grab your son?

14 A I saw two of them jump and then pin my son down.
15 And I went between them and asked them to leave my house.
16 And then they jumped on me, and they pinned me down, too.
17 I don't know what happened.

18 Q Did both of them -- can you describe the actions
19 of each officer and also describe the officer, so I have an
20 understanding of which officer allegedly did what, please.

21 A There were two policemen, one short and one tall.
22 The white was short. And then I saw them jump on my son
23 and pin him down. So I asked them to leave my house.
24 That's correct.

25 Q Okay. You said the short officer was white.

1 Does that mean that the other officer, the tall
2 officer, was not white?

3 A He was black.

4 Q I need to get a picture of what you saw. So
5 instead of saying, "They jumped on my son," I'd like to
6 know exactly what motions they took, whether they grabbed
7 your son, whether they hit your son. And I need to know
8 which officer did what.

9 Can you describe that in better detail for me, please?

10 A I saw two persons -- I saw them -- the two of
11 them -- two side of my son, beat my son and then pin him
12 down. So I came and asked them to leave the house. And
13 then they said it were too late, and then they pinned me
14 down. I did not resist.

15 Q Okay. What I'm looking for is what you recall
16 about what you saw of your son. Let's take a couple steps
17 back.

18 And why don't you tell me if your son is coming down
19 the stairs, where -- which officer is on his right, and
20 which officer is on his left?

21 A Now he's come right here. I saw the white stand
22 right here and the black right here. When my son came down
23 here and then they pin my son down right here, and then I
24 walked to them, and I asked them to leave. And then they
25 said it were too late, and then they pinned me down right

1 three-hole binder facing me; and that the black officer was
2 on my left, when the three-ring binder is facing me; that
3 the officers and the son interacted to the right of the
4 white officer; and that Mr. Tran crossed the room towards
5 the officers.

6 A That's correct.

7 Q Okay. Thank you. You said that the officers
8 pinned your son.

9 Can you describe that?

10 A I don't know what happened. I saw them pin my
11 son down. And I remember his two leg was right here
12 (indicating). And I went in and asked the police to leave
13 the house. And then they pinned me down.

14 Q Okay. When you saw that your son was pinned, was
15 he pinned on his stomach? Was he laying on the floor with
16 his stomach?

17 A When I saw them pin my son down, I saw his two
18 leg. And I came here, and then they pinned me down right
19 here (indicating).

20 Q So you didn't see if your son was laying on his
21 stomach or on his back?

22 A No.

23 Q Did both of the officers -- you stated that the
24 officers pinned you down.

25 Are you testifying that both of the officers pinned

1 Q Was it at that point that they arrested you and
2 put you in the police car?

3 A Yes.

4 Q So it's your testimony today that as soon as they
5 pinned your son, you crossed the room and were immediately
6 pinned without you doing anything to the officers, at which
7 point you were taken into the police car?

8 A Yes. I only asked them to leave the house.

9 Q Did Officer Little, the black officer, put you in
10 the police car?

11 A I don't know who put me into the car. They spray
12 something to me, and I cannot open my eyes. I cannot
13 breathe. I don't know who put me into the car, after they
14 beat me and they pinned me down.

15 Q Do you know who sprayed something in your eyes?

16 A I was on the floor, and I don't know -- I didn't
17 know what happened.

18 Q Did you see what your wife was doing, during the
19 incident?

20 A No.

21 Q Did you, at any time, run from the police
22 officers?

23 A No.

24 (Exhibit 2 was marked for identification.)

25 ////

1 live with my brother, and then my children live with other
2 family member for about a week, after I was released from
3 the jail.

4 Q Where -- with what relative were your children
5 staying?

6 A Their cousin, the children's cousin.

7 Q Okay. And the name of your children's cousin?

8 A Tran Kim-Cuc.

9 Q Can you please spell that for the record?

10 A T-R-A-N, K-I-M, C-U-C.

11 Q And you and your wife stayed with Tran Tam; is
12 that correct?

13 A Yes. When I was released from the jail, I went
14 there and lived there for about a week.

15 Q Did your kids stay with Tran Kim-Cuc for a
16 week-and-a-half, before they moved home with you?

17 A About that time.

18 Q Going back to what you were talking about -- did
19 you have --

20 A Talking about the police chase me around the
21 house, by the time they beat me up, I was kind of dizzy.
22 And I lose my teeth, and then I don't remember exactly what
23 happened, at that moment.

24 Q Mr. Tran, earlier you testified that all you did
25 is cross the floor, and that you were pinned by the police

1 officer, and that you did not run from the police officers.

2 Is it your testimony now that you did run, and the
3 police were chasing you?

4 A Well, I don't say that they chase me. But I
5 don't remember what happened, after they beat me. Probably
6 my face was hitting the wall, and that's why it was swollen
7 and I lose one of my teeth. And until the time that I was
8 in the jail, I found out that my chest was injured, too.

9 Q Mr. Tran, earlier I asked you to describe to me
10 exactly what happened, and you made no mention of any of
11 these details.

12 Can we go back again and start again? And give me a
13 complete and accurate history of what exactly happened and
14 everything that you claim that the officers did to you.

15 A Yeah. Just because I didn't remember.

16 Q Okay. Then why don't we start at the beginning.
17 I need to know everything that you remember in as exact
18 detail as you can give me.

19 A If I cannot remember what happened?

20 Q Nothing happens, if you can't remember. But I
21 need you to tell me if there are things you don't remember.
22 Like, if, for example, there is a span of time and you
23 don't know what happened in that time, then just tell me
24 that you don't remember what happened in that time.

25 A Okay.

1 Q After you called your son downstairs and left him
2 to talk to the police, what exactly happened? If you could
3 just give me a story, as if you were telling me from the
4 beginning to the end. Paint a picture for me. And please
5 don't leave anything out.

6 A After my son came downstairs and then I moved to
7 the door, as I told you earlier, I didn't know what they
8 talked to each other. When they beat my son, I told them
9 to leave my house.

10 Q Okay. I'm sorry to interrupt you. But instead
11 of saying conclusory terms like, "They beat my son," I need
12 you to tell me what exactly they did to your son.

13 A I didn't hear the conversation between my son and
14 the police. I saw the police hit my son, beat my son, and
15 pin him down.

16 Q Hit him where?

17 A I saw them hit my son on the face and then pin
18 him down.

19 Q Who? Which officer?

20 A The white policeman.

21 Q So you saw -- I'm sorry?

22 A When I saw the policeman hit and pin my son down
23 and then there may be another policeman came in, but I
24 don't remember the numbers of the policeman came to my
25 house. I don't remember.

1 leave. But I remember that I told them to leave.

2 Q Did you tell them to leave, or did you ask them
3 to leave?

4 A I asked them to leave.

5 Q And what did your -- were you yelling, or were
6 you speaking in a normal voice?

7 A You mean loud?

8 Q Yes.

9 A No. I speak in a normal tone. I say that,
10 "Please get out of my house."

11 Q And you said this as you were crossing the room
12 toward the officers; is that correct?

13 A That's correct.

14 Q And can you describe how you crossed the room
15 toward the officers, meaning, did you run, did you walk,
16 were your arms up, were your arms down, that kind of
17 information.

18 A Normally, if I ask somebody to get out, I would
19 gesture to ask them to go out.

20 Q Okay. Are you saying you gestured at the police
21 officers?

22 A Yes. I gestured to ask them to leave the house.

23 Q Did you walk over there? Did you run over there?

24 A I walked there.

25 Q Were you angry, when you saw the police officers

1 pin your son?

2 A Yes. Because I didn't know the reason.

3 Q Do you think that your anger was visible to the
4 police officers?

5 A I don't know.

6 Q After you crossed the room towards the police
7 officers, did the officers say anything else to you?

8 A They said it were too late.

9 Q Okay. Then why don't you tell me exactly, in
10 great detail, everything that happened from the time the
11 officer said it was too late until the time of your arrest.

12 A As I told you earlier, that after I got the first
13 hit, I were dizzy. And probably it's first hit is causing
14 me to fall against the wall. Right after the first hit, I
15 was dizzy. And I thought that I fall against the wall.
16 And then I bounced back, and then they hit me again. And
17 then I hit the door.

18 Q Okay. When did you first get hit? Because I
19 need to know when that happened, who hit you, where did
20 that person hit you. I need all the details, with respect
21 to that information.

22 A The black guy.

23 Q Okay. When?

24 A After I asked them to leave the house, then they
25 hit me on my face. And this was a black bruise either one

1 side of my face.

2 Q Okay. When did this happen? I understand that
3 it was after you asked them to leave the house.

4 Is it after they said it was too late? Is it after
5 you crossed the area you were in to be closer to the police
6 officers? Did the police officers come toward you? I need
7 to know a little bit more detail, if you have any. If you
8 don't, then that's fine. But I need to know everything
9 that you know.

10 A Time pass, and then my mind is not good as
11 younger kids. So time pass, and I don't remember in great
12 detail.

13 Q Okay. So sometime after you told the officers to
14 leave, the officer -- the black officer hit you in the
15 face?

16 A Yes.

17 Q And had you crossed to get closer to the
18 officers, at that time?

19 A I walk a few steps, then get close to the police
20 officer.

21 Q You were close to the police officer?

22 A Time pass. Time pass, and my memory is kind of
23 losing the detail.

24 Q Okay. Did the officer hit you once in the face
25 or more than once?

1 A I remember that the police first striked me on my
2 face. And I don't remember clearly what side of my face.
3 And then I fell against a wall. Then when I got back on my
4 feet, then they struck me again. And it's close to the
5 shrine in my house. Time pass, and I losing some of those
6 details. Days pass by, and my memory is not as good as
7 before.

8 Q Who passed by?

9 A Days, days passed by.

10 Q Do you remember anything else, after falling into
11 the shrine?

12 A If I could recall the detail, I would tell you.

13 Q Okay. After the officers hit you, what did you
14 do? Did you try to defend yourself? Did you raise your
15 hands to them?

16 A When I was hit and then the first reaction that
17 you try to duck to be hit again. And I don't know that
18 what the injury from my chest -- where I get injury from
19 for the chest. I don't remember.

20 Q Did you do anything besides duck?

21 A What do you mean what did I do? What do you
22 mean?

23 Q What was your reaction?

24 A The time pass. I don't remember. But of course,
25 if somebody hit you for no reason, you try to duck.

1 Q Did you try to hit back?

2 A How could I hit them back? They have a weapon on
3 themselves. How could I do that?

4 Q I'm not asking -- I'm just asking if you did. A
5 yes or no answer is all I need to know.

6 A No.

7 Q Did you push them?

8 A I don't remember.

9 Q Did you try to restrain them in any way?

10 A No.

11 Q So is it your testimony, then, you sat there and
12 let yourself get hit without doing anything to keep from
13 being hit, other than duck once?

14 A What do you mean I ducked them?

15 Q Earlier, you said you ducked.

16 A It was awhile ago. I could say that I don't
17 remember.

18 Q Because you don't remember?

19 A Too much of stress.

20 Q Do you need to take a break, Mr. Tran?

21 A Yes.

22 (There was a break in the proceedings.)

23 BY MS. CARR:

24 Q Mr. Tran, are you feeling better?

25 A Yes.

1 MS. CARR: I need you to have a verbal answer.

2 MR. KORNAS: Relax.

3 THE WITNESS: Yes.

4 BY MS. CARR:

5 Q This should be -- I know it's stressful. But I
6 can take as many breaks as you need or stop whenever you
7 need to. Again, it's -- just as long as there's a question
8 pending, if you'd answer it. But we can take breaks. It
9 doesn't have to be too taxing.

10 A I think that I don't remember it, at this moment.
11 So I just say that I don't remember. And keep pulling it
12 out from my brain does no help. Too many questions and
13 some questions I remember, then I could answer. Some
14 question I don't remember, and I can't answer.

15 MS. CARR: That's the point of the questions,
16 basically, is to find out what you do remember and what you
17 don't remember. It's important that I get as much
18 information that I can today, so that we don't have to go
19 back later, when you do remember; or so that you don't
20 remember something later that I haven't inquired about.
21 I'm just trying to do my job. But like I said, we can take
22 as many breaks as you need.

23 MR. KORNAS: If I may, Mr. Tran, just relax and tell
24 her what you know. You are not here to provide answers for
25 every question. You are here to tell her what you know.

1 that point on? And I'm referring to the night of July 19,
2 1999.

3 A What I remember, I already told you earlier. And
4 if you ask more, then I have to sit here and try to
5 remember again.

6 Q Mr. Tran, your testimony has changed from the
7 beginning of this deposition to now. And what I need to do
8 is get everything that you remembered after the break,
9 which was not even an hour ago, and talk to you about what
10 those new recollections were and the details surrounding
11 that.

12 A Okay.

13 Q So after you fell into the shrine, what do you
14 remember?

15 A I don't remember. Thing happens to quick. And
16 what I could recall right now, I already told you.

17 Q How did you come to be pinned to the floor?

18 A I don't remember.

19 Q Do you remember how you lost your tooth?

20 A When I was in prison, then I realized that I lose
21 one of my teeth.

22 Q Did you remember when you lost your tooth?

23 A I don't know exactly when. But when I was in
24 prison, I saw the blood, and then I realized that I lose
25 one tooth. Ask me exactly the time, then I can't tell you.

1 Q Did you see any of your property get damaged by
2 the police officers?

3 A I don't remember. Time pass. I don't remember.

4 Q Do you have any personal knowledge that police
5 officers caused any property damage in your home?

6 A What? Do I know what?

7 Q Mr. Tran, in your complaint, you claim that
8 police officers destroyed property in your home. I'm
9 asking you what is the basis for that allegation.

10 In other words, how do you know that the police
11 officers broke property, as opposed to your kids or you or
12 your wife?

13 A When I was stricken by the police, after the
14 first time, I was overcome with bad feeling. And maybe my
15 wife or my children, when they was around me and they
16 wasn't struck like me, then they would see what the damage
17 to the house. I was beat by the police, and then there
18 must be damage in the house. But I could depend on my wife
19 and my children.

20 Q But did you personally see the police destroy
21 anything in your house?

22 A I was beat by the police, and then I was sprayed
23 into my face. I can't see anything. And only the person
24 who saw it are my wife, my children, because they stand
25 around and look and see it. Ask me by that time did I see

1 anything, I couldn't open my eyes.

2 Q Okay. So your answer is no?

3 A No. I don't remember.

4 Q Did you see or hear what your other family
5 members were doing, during this time?

6 A It was a bad memory. Sometime I try to free my
7 mind away from that. And forget it is a good thing to do,
8 because it's really bad. My wife and my children witness
9 what happened around me, after I was beat. Because I was
10 overcome with the feeling of horrors, and I was beat by
11 somebody. And I was dizzy, and so my wife and my children
12 could see. They cry, or they could see thing around me.

13 Q Mr. Tran, I understand that your wife or your
14 children saw more than you did. I'm asking you a very --
15 just a single question of whether saw what your wife and
16 what your kids were doing, while you were struggling with
17 the police. If the answer is no, then it's no, and we move
18 on.

19 A I didn't see.

20 Q Okay. And you didn't hear them talking back and
21 forth either; is that right?

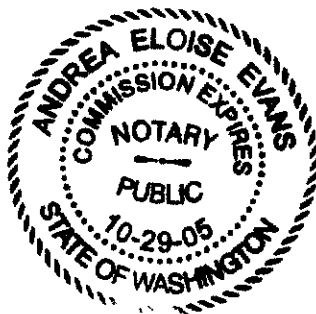
22 A Correct.

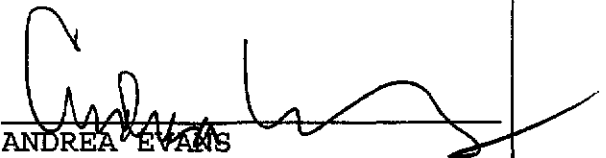
23 Q And you didn't talk to any of the family members,
24 while you were struggling with the police officers; is that
25 correct?

1 STATE OF WASHINGTON)
2)
3 County of King)
4
5
6

7 I, Andrea Evans, hereby certify that pursuant to the
8 Federal Rules of Civil Procedure, MUIO TRAN personally
9 appeared before me at the time and place set forth in the
10 caption herein; that at said time and place I reported in
11 stenotype all testimony adduced and other oral proceedings
12 had in the foregoing matter; that thereafter my notes were
13 reduced to typewriting under my direction; and the
14 foregoing transcript constitutes a full, true and correct
15 record of such testimony adduced and oral proceeding had
16 and of the whole thereof.

17 Witness my hand at Silverdale, Washington, this 8th
18 day of April, 2002.
19




ANDREA EVANS
CCR#EV-AN-SA*352PW